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PROMOTING ACCESS TO BRAIN INJURY HEALTH CARE

October 2, 2011

The Honorable Peter J. Lund, Chair
House Insurance Committee
124 North Capitol Avenue
P.O. Box 30014
Lansing, MI 48909-7514

Dear Rep. Lund:

As Chairman of the Public Affairs Committee of the Brain Injury Business and Professional Council, a national consortium comprised of more than 90% of the post-acute brain injury rehabilitation providers in the U.S., I have been asked comment on the impact of a reduction of PIP coverage as proposed by H.B. 4936.

Most health care consumers have very little knowledge of the nature of catastrophic brain injuries, the extent of medical treatment, including rehabilitation, required to maximize recovery after injury, or the need for ongoing disease management across the lifespan. Further, consumers have almost no knowledge of the associated costs of care, which in 2006 exceeded \$1.8 million on average for all patients who sustain brain injuries. For patients with moderate to severe injuries, the lifetime cost is substantially higher.

If auto insurance plans provide for choice, the most common purchase is always the least expensive. Thus, by enacting H.B. 4936, you can expect a rapid reduction of the overall insured's protection across the State of Michigan of \$250,000. Given that the MVA incidence of TBI in Michigan is 500 individuals per year, and that most of the costs are ultimately transferred to the public sector as explained below, by enacting H.B. 4936, you will transfer an annual \$775 million burden ($\$1.8 \text{ million} - \$250,000 = \$1.55 \text{ million} \times 500/\text{yr}$) to Michigan taxpayers.

In other states, automobile liability coverage is generally exhausted prior to the patient's discharge from acute hospitalization. Few, if any funds are available for rehabilitation much less life care costs (attendant care, institutionalization, durable medical equipment, pharmacy, medical treatment). Without rehabilitation, patients fail to return to work. If the injured is a household earner, job loss results in financial impoverishment for the family, medical indigence, failure to obtain rehabilitation and maximal lifetime disability.

Litigation will not be an option for all or even most MVA cases. In those cases in which lawsuit is an option, treatment is delayed by an average of 2 years before resolution of the lawsuit. The patient receives the balance of funds after the attorney's fees are paid at 30 to 40% of the total recovery, after trial costs are deducted and after Medicare Set Asides are carved out. Quite

frequently, the patient receives less than half the total recovery and is unable to afford to pay to rehabilitation or custodial care as needed, necessitating public assistance in the form of Medicare/Medicaid coverage, public food assistance, public transportation assistance, housing assistance, increased burden on educational systems that can be forced to pay for rehabilitation services outside the school setting, departments of corrections (up to 8% of all incarcerated prisoners have brain injury), and department of vocational rehabilitation.

By preserving auto no-fault and its average premium over other states of \$23 per annum per policy (4 cups of Starbucks coffee), you will continue to distribute the financial responsibility for catastrophic injury across those who exercise the privilege of motor vehicle operation. Further, you will properly protect taxpayers from undue tax liability for these costs. Most important, you will prevent unnecessary joblessness, medical indigence, institutionalization, incarceration, homelessness, and poverty as a result of motor vehicle-related brain injuries in your state by ensuring that individuals who are injured have proper access to treatment and care following brain injury.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Ashley", with a stylized, cursive script.

Mark J. Ashley, Sc.D., CCC-SLP, CCM, CBIST
Chairman, Public Affairs Committee
Business and Professionals Council

cc: Members, House Committee on Insurance
Brain Injury Association of Michigan